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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,044	10/22/2003	Stefan Becker	030563/268051	7541
826	7590	11/22/2006	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			TENTONI, LEO B	
			ART UNIT	PAPER NUMBER
			1732	

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/691,044

Applicant(s)

BECKER, STEFAN

Examiner

Leo B. Tentoni

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08 September 2006 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-9 and 11-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claims 1 and 9, the

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expression "compressing the advancing and drawn yarn to form an advancing plug of low plug density at an increased temperature" (emphasis added) is not supported by the originally-filed specification and thus, is new matter. In claim 15, the expression "a relaxation device comprising a stuffer box chamber positioned to receive the drawn advancing yarn and form a compressed yarn plug of low plug density while heating the yarn" (emphasis added) is not supported by the originally-filed specification and thus, is new matter.

4. Claims 1-9 and 11-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The originally-filed specification does not state or teach one of ordinary skill in the art how to compress an advancing and drawn yarn to form an advancing plug of low plug density (instant claims 1 and 9). Without this disclosure, one of ordinary skill in the art could not practice the invention without undue experimentation. Furthermore, the originally-filed specification does not state or teach one of ordinary skill in the art how a relaxation device (comprising a stuffer box chamber) compresses

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a drawn advancing yarn to form a compressed yarn plug of low plug density (instant claim 15). Without this disclosure, one of ordinary skill in the art could not practice the invention without undue experimentation.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-9 and 11-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1, 9 and 15, the expression "low plug density" renders the claims indefinite principally because it is not clear what applicant intends to cover by such a recitation (e.g., it is not clear what range of values constitutes a low plug density).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the

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art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1, 2, 5, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baader (DE 10100762 A1) in combination with Nelson (U.S. Patent 4,059,873 A).

Baader (see the entire document, in particular, the English-language abstract; Figures 1-3) teaches a process of making a yarn as claimed, except that Baader does not explicitly teach removing any crimp from the yarn (Figure 2 of Baader, at numeral 13, shows reducing crimp), which is taught by Nelson (see the entire document, in particular, col. 4, lines 24-28) and would have been obvious to one of ordinary skill in the art at the time the invention was made in the process of Baader in view of Nelson principally in order to remove entanglement between yarn filaments to manufacture a desired yarn product.

9. Claims 3, 4, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baader (DE 10100762 A1) in combination with Nelson (U.S. Patent 4,059,873 A) as applied to claims 1, 2, 5, 8 and 9 above, and further in view of Eskridge et al (U.S. Patent 4,095,317 A).

Eskridge et al (see the entire document, in particular, col. 6, line 49 to col. 8, line 16) teaches a process of making a yarn including compressing a yarn with a medium (e.g., hot

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vapor) to form a plug, and such would have been obvious to one of ordinary skill in the art at the time the invention was made in the process of Baader in view of Eskridge et al principally in order to form a yarn plug.

10. Claims 15, 16, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baader (DE 10100762 A1) in combination with Nelson (U.S. Patent 4,059,873 A).

Baader (see the entire document, in particular, the English-language abstract; Figures 1-3) teaches an apparatus for making a yarn as claimed, except that Baader does not explicitly teach removing any crimp from the yarn (Figure 2 of Baader, at numeral 13, shows reducing crimp), which is taught by Nelson (see the entire document, in particular, col. 4, lines 24-28) and would have been obvious to one of ordinary skill in the art at the time the invention was made in the apparatus of Baader in view of Nelson principally in order to remove entanglement between yarn filaments to manufacture a desired yarn product.

11. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baader (DE 10100762 A1) in combination with Nelson (U.S. Patent 4,059,873 A) as applied to claims 15, 16, 11 and 12 above, and further in view of Eskridge et al (U.S. Patent 4,095,317 A).

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Eskridge et al (see the entire document, in particular, col. 6, line 49 to col. 8, line 16) teaches an apparatus for making a yarn including a feed nozzle (for feeding a tempered fluid medium) upstream of a stuffer box chamber, wherein the stuffer box chamber has a gas-permeable section, and such would have been obvious to one of ordinary skill in the art at the time the invention was made in the process of Baader in view of Eskridge et al principally in order to form a yarn plug.

Response to Arguments

12. Applicant's arguments with respect to claims 1-9 and 11-16 have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leo B. Tentoni whose telephone number is (571) 272-1209. The examiner can normally be reached on Monday - Friday (6:30 A.M. - 3:00 P.M.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina A. Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Leo B. Tentoni
Primary Examiner
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lbt